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## Chapter 1

# The role of indigenous interpreters in the Peruvian intercultural, bilingual justice system

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Since 2012, the Peruvian State, through its Ministry of Culture, has been training indigenous translators and interpreters. Their remit is to facilitate communication between the indigenous population of the country and its institutions, against a socio-political background of historical marginalization of, and discrimination against, indigenous peoples, their languages and cultures.

This paper is based on research and fieldwork conducted by the authors in Peru between October 2014 and June 2016.<sup>1</sup> It will focus specifically on the role that the indigenous interpreters play in guaranteeing access to justice for speakers of minoritized languages. Relevant contextual information about Peru will be provided, including the legal framework for the provision of interpreting services between Spanish and indigenous languages. The paper will further describe the training program put in place by the State, before critically addressing the challenges that practitioners and institutions face. We will also report on *ad hoc* interpreting initiatives that are beginning to emerge in the country, beyond the remit of the State training programs, and will conclude with some general observations derived from our research.

## Introduction

Peru is a highly biodiverse, resource-rich country. In modern times, national and transnational companies are exploiting its reserves of minerals in the Andean region and oil and natural gas in the Amazon rainforest with ever increasing intensity. The country is home to a multi-ethnic population that comprises native peoples, as well as groups of European, African and Asian descent. According to *The Sociolinguistic Atlas of Indigenous Peoples in Latin America* (Sichra 2009), the native peoples make up 13.9% of the population and

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speak, as per government estimates, some 47 indigenous languages. According to the most recent legislation, to be discussed in what follows, the indigenous tongues have official status “in the areas where they predominate” (Indigenous Languages Act, 2011, Article 9, see Congress of the Republic of Peru 2011). The Spanish spoken by indigenous bilinguals is also highly stigmatized, both in Lima, the capital city, and in the main localities of the Andes (Cerrón-Palomino 2003; De los Heros 1999; Escobar 1978; Zavala and Cordova 2010).

Against this complex and diverse ethnolinguistic landscape, one constant remains: indigenous languages and cultures have been historically subordinated to Spanish and to the cultural patterns and institutional norms associated with this language. To a large extent, this still holds true. Nonetheless, national legislation, in accordance with international legal instruments, such as the International Labour Organization Convention no. 169 on indigenous and tribal peoples (ILO 1989), of which Peru is a signatory, enshrines the linguistic rights of the Amerindian communities. Article 48 of the Constitution (Democratic Constituent Congress 1993) guarantees speakers of indigenous languages the right to an interpreter, ostensibly in recognition of their entitlement to use their native tongues in public and official settings. In 2003, a Languages Act (Congress of the Republic of Peru 2003) was passed. However, this legislation did not lead to an effective change in policy. The turning point in contemporary Peruvian language policy came in 2011, with the enactment of two pieces of legislation: a new Indigenous Languages Act (Congress of the Republic of Peru 2011b) and the Right to Prior Consultation Act (Congress of the Republic of Peru 2011a). It was the passing of these two Acts that led to the current processes for the implementation of the principles of language rights for indigenous peoples that will be discussed here.

This paper will outline the legal framework for the provision of interpreting services between Spanish and the indigenous languages of the country, before describing the State-sponsored interpreter training provision. It will conclude with an examination of the ensuing challenges that practitioners and institutions face.

## **Current Peruvian legal framework on multilingualism and cultural diversity**

The 2011 Indigenous Languages Act, to quote from its full title, “regulates the use, preservation, development, revitalization, promotion and diffusion of the indigenous languages of Peru”. Its Article 4 states that every person has a right to the services of a “translator” for communication purposes in public service settings. Moreover, Article 20 stipulates that consultation and citizens’ engagement processes pertaining to investment projects will be held in the indigenous language of the people(s) who inhabit the land where the projects are to be developed. As the language of the State is Spanish, this means, *de facto*, that the involvement of interpreters will be required in the consultations.

The Right to Prior Consultation Act focuses specifically on such consultation processes. According to this Act, the aim of the consultation is to reach an agreement between the State and the indigenous or native peoples by means of

an “intercultural dialogue” that guarantees their inclusion in the decision-making processes of the State and the adoption of measures which respect their collective rights (article 3). Hence, this Act signaled a departure from the previous State practices as to the concession of rights to companies in indigenous peoples’ territory: these concessions normally happened with very little (if any) consultation with the communities who were going to be affected. Article 16 of the Act guarantees the right to an interpreter in prior consultation processes, and, interestingly, stipulates that the interpreter must be trained in the specific subject matter of the consultation and registered by the governmental body specialized in indigenous affairs (de Pedro Ricoy, Howard and Andrade Ciudad, 2018b).

The passing of these two pieces of legislation, the Indigenous Languages Act and the Right to Prior Consultation Act, was momentous for two reasons. Firstly, the figure of the professional indigenous interpreter became publicly recognized for the first time in contemporary Peru. While bilingual indigenous people have acted as linguistic mediators between the native populations of the country and the Spanish-speaking administration since colonial times (De la Puente Luna 2014; Valdeón 2014), formal training, accreditation and registration of interpreters are new developments. As we will explain further on, the novelty of this situation has posed significant challenges, both to the State institutions and to the interpreters themselves. Secondly, the Acts demonstrate that access to justice is not restricted to informed participation in judicial processes, but that, rather, it also includes the right of the indigenous communities, historically marginalized, to be consulted on matters that affect them. Thus, the role of the indigenous legal interpreters is both to guarantee equality for individuals and to promote collective human rights.

As mentioned earlier, provision for the recognition of the language rights of indigenous peoples is laid down in domestic legislation (see Ruiz Molleda 2014) and also in international legal instruments, such as ILO Convention 169 and the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIPS). However, its implementation failed to materialize, which had implications in terms of the recognition of cultural diversity within judicial processes. The question can be then asked as to what prompted the eventual enactment of the Indigenous Languages and Prior Consultation Acts in 2011 (Congress of the Republic of Peru 2011b; 2011a). The widely accepted answer is that they were triggered by “the Bagua massacre”, commonly referred to in Spanish as “*el Baguazo*” (see Luna Amancio 2014). On 5 June 2009, violent clashes erupted between the local population and police forces that the State had sent to intervene in demonstrations by local mestizo and indigenous peoples close to the town of Bagua, in northeastern Amazonia. The clashes were the culmination of an escalation of tension and hostilities that arose because of an amendment to domestic legislation that aimed to simplify procedures for trading communal lands in Amazonian territories (see Caverio 2011), in a clear contravention of the rights of the indigenous communities. In the confrontation, hundreds were injured and the death toll was 33 – 10 civilians (indigenous and mestizo) and 23 police officers, according to official figures. Criminal charges were filed against 53 civilians, nine of them of Wampis ethnicity, 12 of Awajun ethnicity and one of Shawi ethnicity, as well as against

3 police officers.<sup>2</sup> Interpreters were brought in to serve during the high-profile trial of the indigenous defendants, as we shall describe below.

Also in 2011, the Peruvian Judiciary instigated the creation of a Working Group on Indigenous and Civil Justice (*Comisión de Trabajo sobre Justicia Indígena y Justicia de Paz*) with a view – to paraphrase from their documentation – to creating a roadmap to monitor the relationship of the State Judiciary with the indigenous justice systems, which are based on customary law, and making recommendations for the enhancement of mutual understanding, cooperation and conflict resolution procedures.<sup>3</sup> This became the basis on which the Intercultural Justice system would be developed. According to the Inter-American Court of Human Rights (2005: 61), Intercultural Justice must give due consideration to the economic, social and cultural characteristics of indigenous people in any legal proceedings. Anthropologists may give expert evidence and translators and interpreters must be involved to facilitate communication between the State institutions and the indigenous peoples. Three years later, as the Bagua trials were about to commence, Ruiz Molleda (2014), of the Legal Defence Institute (*Instituto de Defensa Legal*), quoting from proceedings of the International Court of Human Rights in relation to indigenous peoples and from the Peruvian State Constitution, asserted that “the Judiciary and the judges should not treat indigenous people in the same way as they would a citizen who is a member of the dominant culture”.<sup>4</sup>

## Institutional response

Thus, the development of the Intercultural Justice system, combined with the need for language brokering during the Bagua proceedings (which were eventually held between 2014 and 2016), brought into sharp focus the need to train and register translators and interpreters, as per the stipulations of the Indigenous Languages Act and the Right to Prior Consultation Act. This presented a notable challenge to the government, and, more specifically, to the Viceministry of Intercultural Affairs, instituted in 2010, which is the official body specialized in indigenous affairs. To address this challenge, the Ministry of Culture embarked on an ambitious interpreter training and qualification

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<sup>2</sup> See Molina (2016). The trial against the indigenous and mestizo defendants was closed on 22 September 2016. They were acquitted of all charges. The trial against the police officers has not started yet.

<sup>3</sup> “[D]icha Comisión de Trabajo tenía el propósito que sus integrantes desarrollen y monitoreen los componentes, acciones y tareas concretas de una hoja de ruta del Poder Judicial en su interrelación con la Justicia Indígena, tanto en lo referente al mutuo conocimiento de los sistemas de justicia a nivel sociológico y legal, a la coordinación entre sistemas de justicia y la resolución de conflictos entre ellos” (‘The purpose of the said Working Group was for its members to develop and monitor the components, actions and specific tasks of a road map relevant to the relationship of the State Judiciary with the indigenous justice systems, relating to the mutual understanding of the justice systems on the sociological and legal levels, the coordination across justice systems and the resolution of conflicts arising between them’) (Corte Superior de la República 2012). For an elaboration on these issues see the Peruvian Judiciary (2013).

<sup>4</sup> “[E]l Poder Judicial y los jueces ‘no pueden dar a los miembros de los pueblos indígenas el mismo trato que le da [sic] a un ciudadano que participa de la cultura dominante.’” For a reflection on intercultural justice in Peru, see Peña Jumpa (2014).

program with the ultimate aim of making provision for speakers of the 47 indigenous languages of the country. In 2012, the “Indigenous Languages Interpreter and Translator Training Course” (*Curso de Intérpretes y Traductores en Lenguas Indígenas*) was launched. An official Register of indigenous translators and/or interpreters was created in the same year and was granted legal status in 2016. Any public institution wishing to engage the services of indigenous translators and/or interpreters must now refer to this Register.

The basic training course is a three-week, non-language specific, intensive program underpinned by intercultural principles. Its curriculum covers legislation and rights, professional ethics, grammar, principles of translation and interpreting, and practical exercises in the latter. To date, there have been nine editions of the course, 307 translators and interpreters have qualified and 36 indigenous languages have been covered. Initially, the course prioritized training for participation in prior consultation processes. However, in response to the wider demands of the legislation, content related to public service interpreting and translation was introduced in the course from the sixth edition onwards. This diversification stemmed from the stipulations in the Indigenous Languages Act regarding access to public services in areas of the country where a given indigenous language predominates and responds to a real need, as, even where public servants are bilingual, the services are formally delivered in Spanish. Interestingly, the ethical and professional codes embedded in the training are those derived from literature on community interpreting and are applied to language brokering in both public service settings and prior consultations, even though the latter are akin to business negotiations. In this regard, the lack of differentiation between the relevant codes of practice can impact on the rapport between the interlocutors and the interpreters, as we shall further mention below (see also De Pedro Ricoy, Howard and Andrade Ciudad2018b).

The basic course has been complemented by three-day specialized workshops, including ones dealing with prior consultation, which are institutionally run, and justice. These tend to focus on legal frameworks, and the acquisition and clarification of relevant terminology. A monolingual (Spanish) glossary is compiled and updated by the Ministry of Culture on the basis of these workshops.

In addition, as a requirement for graduation from the course, the participants must complete a placement in a relevant public institution. These placements do not necessarily entail translation or interpreting activities, but they are a positive example of how the State has realized the value of continuous professional development and of situated learning. However, the process has not always been smooth, because of institutional and public perceptions, which we will deal with later.

The approach to the training provision can be justified by the diversity of the participants’ profiles and the restricted resources available (human and otherwise), as well as by the need to cover as many indigenous languages as possible and achieve parity between the number of men and women represented, when the latter, in particular, are unlikely to be able to devote lengthy periods of time to the training. Having said that, it is undoubtedly a tall order to train translators and interpreters to a professional standard in three

weeks, especially in the absence of qualified translation and/or interpreting trainers who are speakers of both Spanish and indigenous languages. It is also pertinent to note that, as our research revealed, a key motivation of the majority of the participants in the Course is not only to become accredited translators and/or interpreters, but also, and importantly, to increase the visibility of their languages and cultures and promote the rights of their peoples (Andrade Ciudad et al. 2017a).

## Challenges

Let us now consider the challenges that have emerged from this novel scenario, focusing on those that pertain specifically to interpreting. We will deal with procedural issues, management of the language transfer and institutional and public perceptions of the interpreters' practice, in that order.

Procedurally, the mechanisms for contracting interpreters are not yet well established.<sup>5</sup> For example, there was a delay to the opening of the Bagua trials because of some apparent confusion as to the provision of language mediation. No language assistance had been provided to the defendants beforehand,<sup>6</sup> and when the proceedings were due to start, as Ruiz Molleda (2014) reported, the Legal Defence Institute was informed that, as the Judiciary could not provide interpreting services, the Episcopal Commission on Social Action (CEAS) would supply its own. Thus, CEAS and the Legal Defence Institute started providing legal support to the indigenous leaders that were being prosecuted.

Eventually, the Ministry of Culture contacted two members of the first course cohort, a speaker of Wampis (henceforth, Interpreter 1) and a speaker of Awajun (henceforth, Interpreter 2), who agreed to provide their services.<sup>7</sup> In interviews that we conducted with them, they both stated that they took on the job out of a sense of responsibility towards their peoples and to contribute to a satisfactory outcome for all the parties concerned. For example, Interpreter 2 recalled that he was criticized by other members of the Awajun people when he agreed to interpret at the proceedings, and explained his rationale in these words:

I have not sold out; rather, this is an opportunity for expressing my feelings, what I want for myself and my country, and for my people as well. [...] Adopting a kind of mystical approach, I had to find a way of positioning myself for the common good (interview, Lima, 01/10/2015).<sup>8</sup>

Considering that both Interpreter 1 and Interpreter 2 are based in Lima and that they have jobs and family obligations, the weekly bus journey to Bagua, which takes over 20 hours each way, was a huge commitment, even more so because

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<sup>5</sup> A Protocol is being drafted by the Ministry of Culture.

<sup>6</sup> The absence of interpreting assistance in the stages of the proceedings prior to the trials is an irregularity that further underscores the fact that the provision of this kind of service is still very much in its infancy in Peru.

<sup>7</sup> The involvement of the interpreters in the Bagua trials has been the subject of media cover. See, e.g., Luna Amancio (2014) and ONAJUP (2014).

<sup>8</sup> "No me han comprado, sino que es una oportunidad para decir qué siento yo, qué deseo yo para mí y para mi país o para mi pueblo también. [...] Yo, haciendo una mística, tenía que ver la manera de ubicarme, para un bien común".

they started working without remuneration and, additionally, had to cover their own expenses as a result of the lack of procedural clarity mentioned earlier (see also Andrade Ciudad et al. 2017b). Interpreter 1 highlighted the stress that she was under throughout the initial stages of the assignment:

I was informed a week before. A friend of mine told me that I was going to be the interpreter, and I said: “How come? Why? Why me?” [...] And I was phoned about, I don’t know... three days before the trip, [and I was told] that I had to sign the contract. It was like that, total madness (interview, Lima, 10/03/2015).<sup>9</sup>

Interpreter 1 tellingly underscored issues of ethnic identification as one of the main tensions that arose during her first performances as judicial interpreter. Her testimony brings to the fore the conflicts that permeate neutrality and ethical protocols for interpreters of indigenous origin in postcolonial countries:

Although it is true that my closest relatives were not involved in the Bagua proceedings, the Bagua context is really relevant for us, it is very significant, and being there was like facing... facing again that movement, that situation, and two people were still remanded in custody, two Awajun, and they came to the hearing wearing handcuffs, and this was shocking for me [...]. During the training, we were always told about the need [for interpreters] to be neutral, that we had to interpret literally, that the matter under discussion, the stance held by either party are no concerns of ours, that our duty is to relay the message. I was clear about that, but being there and watching all that was simply too much [...] because we arrived and we could not even greet them, because we were told [...] that we should not have any involvement with the defendants, in order to avoid misunderstandings on the part of the prosecutors or the judges (interview, Lima, 28/02/2015).<sup>10</sup>

The two interpreters also reported that, in spite of the fact that neither of them has a legal background, no briefing was initially provided and they were expected to “hit the ground running”. Interpreter 1 told us:

In the first hearings, what I wanted to [know] was: how was I to act? How was I meant to deal with terms that I couldn’t interpret on the spot? I had many doubts. I used to say to myself: “What do I do now?” I had a

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<sup>9</sup> “A mí me avisaron faltando una semana. Una amiga me dijo que yo iba a ser intérprete, y yo dije: Pero ¿cómo? ¿De dónde y por qué yo? [...] y me llamaron casi faltando no sé... tres días para el viaje, que tenía que firmar el contrato. Fue así, toda una locura total”.

<sup>10</sup> “Si bien es cierto mis familiares directos no están involucrados en el caso de Bagua, el mismo contexto de Bagua es bastante fuerte para nosotros, es bastante significativo, y estar allí era como encontrarse, encontrarse con ese movimiento que hubo, con esa situación, y en ese momento todavía estaban con prisión preventiva dos personas, dos awajún, y venían enmarcados a la audiencia y eso era chocante para mí [...]. En la capacitación siempre nos hablaron de que tenemos que ser neutrales, de que tenemos que interpretar literalmente, que no nos importa qué se está debatiendo, las posiciones que tienen ambos lados, nos importa transmitir el mensaje. Yo tenía claro eso, pero el estar en el momento y ver todo eso era bastante, [...] porque llegamos y ni siquiera podemos saludar porque nos habían dicho [...] que no teníamos que familiarizarnos con los acusados para poder evitar malas interpretaciones de los fiscales o de los jueces”.

recurrent question: “How can I solve these doubts?” (interview, Lima, 28/02/2015).<sup>11</sup>

The problems that, understandably, ensued were palliated when the proceedings were interrupted so that the National Office for Civil and Indigenous Justice (ONAJUP), in coordination with the Ministry of Culture, could brief them (ONAJUP 2014). This contributed to easing the working relations between the Court personnel and the interpreters.<sup>12</sup>

The Bagua proceedings were a landmark case in Peruvian legal history, because of the nature of the circumstances that led to them and, importantly, because indigenous interpreters trained and qualified by the State were employed for the first time in a Court of Law. What happens in other court cases is not as high profile or as widely reported, but it is reasonable to assume that issues of a similar kind are likely to arise and that the institutions should be working together to iron them out.

Moving on to matters that relate to the language transfer and the management thereof, we will firstly highlight linguistic and cultural asymmetries.

A clash of traditions and beliefs compounds the asymmetry of discursive and text-generic patterns between Spanish and indigenous languages. Spanish texts and discourses, when translated into the languages of peoples whose social structures and organization of legal matters are very different, remain alien, not because they cannot be expressed in those languages, but, rather, because they originated within a conceptual framework that the indigenous peoples do not necessarily share. An example of this can be found in the difficulty that translators had in expressing the concept of “rights” in the indigenous languages (for detail of this and other examples, see Howard et al. 2018). We will comment on two aspects related to these asymmetries.

Firstly, the emphasis that the State training course places on terminology, as evidenced in the focus on glossary construction,<sup>13</sup> risks creating a perception of lexical “deficiency” among the interpreters regarding the indigenous languages, which do not have “one-to-one equivalents” for technical or specialized terms that are, purportedly, common currency in the hegemonic language. In some ways, this echoes the discourse of churchmen of the colonial era, who complained of the inability of Quechua, for example, to express the tenets of the Christian faith (Mannheim 1991: 69). Whereas it is true that language does not have a purely referential function, it is also true that alien or new concepts find their way into languages through the creation of “labels” that refer to them, through neologism, transliteration, calque or adaptation; and this indeed occurs (Howard et al. 2018; De Pedro Ricoy et al. 2018a). That is not

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<sup>11</sup> “En las primeras audiencias yo lo que quería era [saber] cómo iba a actuar, cómo iba a enfrentar esos términos que en ese momento no podía darle interpretarlo, tenía muchas dudas, decía: ‘¿ahora qué hago?’. Estaba en esa constante pregunta. ‘¿Y cómo salgo de esas dudas?’”

<sup>12</sup> The problems that arose around the use of interpreters in the Bagua trial also led to the Indigenous Languages Division setting up a three-day intensive course in translation and interpreting in indigenous languages for intercultural justice, which took place in 2014. This model was expanded and the 9<sup>th</sup> edition of the three-week course (July 2016) was devoted entirely to this specialism.

<sup>13</sup> The Ministry of Culture coordinates the compilation of glossaries to provide explanatory equivalents that may assist the interpreters when performing their task.



the crux of the matter. The key consideration here should be that a person (or a linguistic community) may understand the denotation of a term, but not its connotation in the context of a hegemonic system whose legal parameters differ from their own. An example drawn from the charges against the indigenous people involved in the events in Bagua is illustrative of this: what happens if you have dispossessed a law-enforcing officer of his weapon when defending your rights? This is a criminal offence in the framework of a legal system, derived from Roman Law, that is alien to you. What happens if you do not consider the act to be a criminal offence? Should the principle that *ignorantia juris non excusat* apply?

Secondly, the emphasis on terminology and phraseology detracts from the attention that should be paid to the asymmetries in discursive patterns and practices. Instruction, exposition and argumentation are textually instantiated according to language-specific rules and norms. Therefore, it seems reasonable to assume that, in the course of lengthy criminal proceedings conducted across languages that reflect very different world views, such asymmetries are likely to cause misunderstandings and even a potential breakdown in communication. Interpreter 2 elaborated:

It is a very complex situation, because we are facing two different realities. [...]. Here, each crime is punished according to its degree of severity, but adapting this to my reality posed great complexity. So, what we did, or what I did, was to look for a word that could be a close translation, because in our language there are no words for those crimes. For example, "rape". [...] But I also had in mind that those two worlds were coming face to face, meeting each other for the first time. [...] "Culpable homicide", for example, that doesn't exist, and we asked ourselves: "What should I say?". "Culpable homicide", "dispossessing an officer of a firearm" [...]. And also "public obstruction" (interview, Lima, 01/10/2015).<sup>14</sup>

Another aspect that merits consideration is the hegemonic place of Spanish in Peru. The assumption that it works well as a *lingua franca* in public service settings is potentially misleading, in that it can be used to argue that the use of interpreters is unnecessary. The view that interpretation is required only for indigenous people who are monolingual prevails in the public arena, although monolingualism is no longer the norm among indigenous populations.

In relation to this, Interpreter 1 recounted that, even though she perceived an "evolution" among the judges in the Bagua trial regarding intercultural matters, at the beginning they adopted an aggressive stance towards the defendants, pointing to their bilingualism and their knowledge of Spanish as evidence of the fact that they did not need an interpreter at all:

They were cruel towards the defendants. They told them: "Hey, be honest: if you speak Spanish, if you understand it, just say that you will testify in

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<sup>14</sup> "Es complicado, porque son dos realidades [...]. Aquí se castiga el nivel o el grado del caso, pero adaptar prácticamente a mi realidad era complicado. Entonces, lo que hicimos o lo que hice es buscar un término más o menos que se aproxima a la traducción, porque en el idioma no hay palabras para esos casos. Por ejemplo, 'violaciones'. [...] Pero también consciente de que esos dos mundos se encuentran recién, se conocen recién por primera vez. [...] 'Homicidio culposo' por ejemplo, que no existe, y nos preguntábamos: '¿Qué digo?' 'Homicidio culposo', 'arrebato de armas' [...]. Y después 'obstrucción de vía pública'".

Spanish, and those who don't understand it at all, may testify in their language". Those were the rules (interview, Lima, 10/03/2015).<sup>15</sup>

Although most indigenous people will have some knowledge of Spanish, this does not mean that they are proficient enough in that language to enter into a meaningful (and often essential) dialogue with the institutions.<sup>16</sup> The situation is aggravated by the historical discrimination that the indigenous peoples of Peru have suffered, which in some cases results in a reluctance to use their own languages in official or professional settings, for fear of being considered "inferior". Additionally, some languages have very few speakers remaining, and wholesale shift to Spanish has taken place in some communities, leading speakers to question the need for interpreting when dealing with the institutions in, for instance, prior consultation processes. Yet again, as we mentioned in our introduction, speakers of non-standard Spanish may also meet discrimination on linguistic grounds.

We will now focus on the challenges that concern the professional practice of the interpreters and how public service providers and civil society perceive it.

The lack of familiarity with the figure of the indigenous interpreter in contemporary Peru can lead to misconceptions as to their role and what interpreting entails. The indigenous beneficiaries of interpreting services are not necessarily more familiar with the role of the interpreter than the rest of society. As mentioned previously, some of them are bilingual and can, therefore, monitor and evaluate the interpreter's performance in both languages. This may lead to a lack of trust and to erroneous expectations. For example, the Wampis interpreter in the Bagua proceedings related how she was criticized for seeking clarification "too often", as if omitting or distorting information were preferable:

And then, when the day of the hearing arrived, I had doubts [...]. So, I put questions to the prosecutor, to, please, provide clarification of such and such a term, and this went on for almost the whole hearing in which the charges were read. It was plain to see that I was being criticized. I don't know if some of the ones that were published, the articles that appeared in the press [saying] that we lacked the required competence [...], and the judiciary was also heavily criticized, the ministries were heavily criticized, so we also ended up on the receiving end (interview, Lima, 28/02/2015).<sup>17</sup>

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<sup>15</sup> "Eran crueles con los acusados. Les decían así: 'Oye, sean sinceros: si hablan el castellano, si entienden, digan que van a declarar en castellano, y las personas que no entienden en absoluto, que declaren en su idioma'. Eran esas reglas".

<sup>16</sup> This is also documented for other geographical-cultural contexts. For instance, Cooke (2002) reported the case of Australian Aboriginal defendants whose level of English competency was shown to be inadequate to deal with the legal proceedings with which they were confronted. This inadequacy could go unrecognized by the authorities, potentially leading to miscarriages of justice.

<sup>17</sup> "Entonces, cuando llegó el día de la audiencia, yo en ese momento tenía dudas [...]. Entonces, yo lancé las preguntas al fiscal que me aclarara, por favor, tal término, tal término, y así, casi toda la audiencia cuando se leyó la acusación fiscal. Y allí pudieron notar también que me criticaron. No sé si algunos que salieron, las notas que salió en los medios que no estábamos preparados [...] y criticaron mucho al Poder Judicial, criticaron mucho a los ministerios y, pues, a nosotros también nos cayó".

Furthermore, press coverage at the time criticized the interpretation for not complying with international standards, in that it was not performed in the simultaneous mode (Wiesse and Saravia 2014). In fact, there are no international standards that stipulate that interpreting should be conducted simultaneously in court proceedings and, moreover, this does not occur routinely. More importantly, it would have been impossible to provide simultaneous interpreting in Bagua, due to the lack of technical equipment and booths in the Court. Such ill-founded criticism is bound to have a detrimental effect on the interpreters' morale and can also misguide public opinion as to the value of their role.

Another consequence of the lack of familiarity with the remit of the indigenous interpreters and the limits of their role is the potential for mistrust to be generated across the triadic relation between the judiciary, the interpreter and the indigenous beneficiaries of the interpretation. During the State-sponsored training, the neutrality of the interpreter is highlighted as "a must", and we have evidence that the trainees engage well with the principle: they often describe themselves as "conduits" for the voices of others and aspire to be "invisible". However, the presumption of neutrality can be challenged by both sets of interlocutors involved in the mediated exchange: the representatives of the legal institutions may feel that the interpreter aligns himself or herself with his or her own people and, therefore, manipulates the information; on the other hand, the indigenous communities may believe that an interpreter trained and employed by the State is betraying his or her people by serving its interests.

In conversation with us, employees of the Ministry of Culture provided examples of how this tension can manifest itself: for example, one interpreter demanded a very high fee because he considered that he was "harming his people" in his mediation role during a prior consultation process, and another expressed his frustration at not being allowed to provide advice to his community and to represent it in the way he thought best in front of the State representatives, for which reason he had to be replaced. Issues of (mis)trust also lead to communicative situations in which two interpreters are present in prior consultation processes: one trained and employed by the Ministry and another, unqualified and untrained (although often with informal experience of the task), appointed by the community. Although the presence of two or more interpreters is not uncommon in business negotiations, this situation has led to a perceived hierarchy of interpreters when the State trained and "local" interpreters find themselves sharing the same space, and also to problems related to the construction of trust. There is awareness of this issue on the part of both trainers and trainees, and efforts are made to resolve it (De Pedro Ricoy, Howard and Andrade 2018b).

## **Beyond State provision: grassroots initiatives**

While our research under the aegis of the AHRC project mainly focused on State training of indigenous interpreters and translators, as discussed so far, our collaboration with the NGO *Servicios Educativos Rurales* (SER) as project partners (see note 1) also brought to light the practice of community interpreting conducted in other arenas, beyond the orbit of the formal training

program. As a result of her work with indigenous women's organizations in the southern Peruvian Andes, Raquel Reynoso (President of *SER*) brought to our attention the existence of a figure that she named the *traductora social* ("social interpreter"; Reynoso 2016).

The *traductoras sociales* are female speakers of both Spanish and Quechua or Aymara who help out on an *ad hoc* basis in public service settings or formal meetings involving indigenous women who need interpreting support. As well as providing a service of cultural and linguistic mediation, they also work with rural women, whose right to participate in the governance of their communities and the management of the communal land and resources is rarely recognized, by raising awareness and providing relevant training. Their involvement in language-brokering is a bottom-up initiative motivated by the desire to serve the interest of minoritized groups that has arisen quite independently of the State.

In August 2016, *SER* informed us of a new development whereby the social interpreters have been called upon to serve in the context of the National Commission to register the testimonies of the women who were the victims of a compulsory sterilization program over the 1996-2000 period. The government in power in 1995 introduced an amendment to the General Population Law to include sterilization as a contraceptive method, on the principle that lower birth rates would drive down poverty. One year later, the Reproductive Health and Family Planning Program (*Programa de Salud Reproductiva y Planificación Familiar*) was launched. Nearly 315,000 women, most of them indigenous, were subjected to sterilization under this program. According to the Latin American and Caribbean Commission for the Rights of Women (CLADEM), only 10% gave their consent to the procedure (Lizarzaburu 2015).

The first death came in 1996 and from then onwards a high number of illegal procedures started to be reported. The Peruvian Office of the Ombudsman (*Defensoría del Pueblo*) published three reports that presented findings regarding the absence of guarantees for informed consent, the undue pressure that women were put under, and the lack of aftercare. Two of the key recommendations were that women who were forcibly sterilized should receive compensation and that all cases of compulsory sterilization should be investigated.

A Register of Victims of Forced Sterilization (*Registro de Víctimas de Esterilizaciones Forzadas - REVIESFO*) is currently being compiled by the Ministry of Justice and Human Rights, with a view to seeking legal redress for the victims. As mentioned, most of the latter are women speakers of indigenous languages, from poor, rural backgrounds and have low levels of formal education. Interpreters were recruited to assist with the gathering of testimonies that will be the basis for a record of the cases. As we learned from a speaker at an event we held in Ayacucho in August 2016, who works alongside the REVIESFO Commission, only male interpreters had been recruited, due to non-availability of accredited female ones. This, inevitably, had consequences for the effectiveness of an interpretation process that involved women's testimonies of such an intimate nature. As an upshot of the event, as *SER* subsequently reported to us, the social interpreters with whom

they have hitherto been working in other contexts have now been recruited to support the work of the *REVIESFO* Commission.

This is an example of how, where adequate official provision is not readily at hand, initiatives may be taken at the grassroots, motivated by the need to serve the interests of minoritized and vulnerable groups. The topic merits further research to see how, potentially, the grassroots experience of the social interpreters might come to inform and articulate with State policy and provision.

## Concluding remarks

Much ground has been covered and considerable progress has been made in a relatively short period of time in Peru as to the provision of interpreting services between Spanish and the indigenous languages of the country. The processes that the State has put in place could be consolidated in a number of ways, and these concluding remarks are intended by way of suggestions.<sup>18</sup>

Generic interpreter training could be followed by further specialization and continuous professional development to guarantee adequate service levels. As for the management of the interpreters' involvement in guaranteeing access to justice, in the case of prosecutions, the Judiciary could ensure that interpreters are involved at all the stages (police interviews, liaison with lawyers, statement-giving, statement-signing, etc.), and not only in court proceedings. Prior consultation provides a good model for this, as the interpreters already participate in all the relevant stages of the process. In addition, sound protocols for the employment of interpreters (including a fee structure) could be developed, as well as a specific code of practice for indigenous interpreters that is relevant to the socio-political backdrop to their role. Finally, more could be done institutionally to redress the gender imbalance and create incentives for indigenous women to train and qualify as interpreters.

More widely, awareness of the role of indigenous interpreters could be further raised among the users of their services and civil society alike. It is crucial that the scope of both the interpreters' role and its boundaries be socialized in a country that is still characterized by acute inequality and discrimination against indigenous peoples. It is also essential to address the specifics of a situation where a level of bilingualism is presumed of indigenous people, where linguistic and cultural asymmetries impinge greatly on the interpreting process, and where the scales of power tip manifestly in favor of one linguistic community for historical reasons. Otherwise, there is a risk that indigenous interpreters may be considered, at worst, redundant (as a representative of the Ministry of Energy and Mines said after a training workshop for a prior consultation process, "using Spanish, we will always more or less understand one another") and, at best, an expensive add-on motivated by political correctness. The role of the indigenous interpreters is a cornerstone in the

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<sup>18</sup> These suggestions arise from our observations during the period of the research project; new developments in these directions may have unfolded since that period.

safeguard of the human rights of Peruvian minoritized communities and their access to justice, and it needs to be recognized as such.

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